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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,029	10/09/2001	Vishal Sharma	04910087059	5080
5073	7590	07/27/2005	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			TRAN, PHUC H	
		ART UNIT	PAPER NUMBER	
			2666	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

CJM

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/973,029	SHARMA ET AL.	
	Examiner	Art Unit	
	PHUC H. TRAN	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 09 October 2001.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3, 10, 15, 16 and 18-32 is/are rejected.
- 7) Claim(s) 4-9, 11-14 and 17 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

<ol style="list-style-type: none"> <li>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/9/01, 9/29/03</u>.</li> </ol>	<ol style="list-style-type: none"> <li>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.</li> <li>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6)<input type="checkbox"/> Other: _____.</li> </ol>
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## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-2, & 30 are objected to because of the following informalities: “plurality of K”, in line 3, is not clear what K is defined for. Appropriate correction is required.

Claim 23 is objected to because of the following informalities: “R/K” is not clear what K is defined for in the claim. Appropriate correction is required.

Claim 24 is objected to because of the following informalities: “R/N” is not clear what N is defined for in the claim. Appropriate correction is required.

Claim 31 is objected to because of the following informalities: “plurality of K” in line 2 is not defined. Appropriate correction is required.

Claim 32 is objected to because of the following informalities: “pathway,” should be rewritten as “pathway.” Appropriate correction is required.

### ***Specification***

2. This application does not contain a summary of the invention as required by 37 CFR 1.73.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

- Regarding to claim 2, “assigning a second data flow to said first switching pathway” in line 9, is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 10, 15-16, and 18-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bianchini, Jr. (U.S. Patent No. 6842422 B1) in view of Proctor et al. (U.S. Patent No. 5030232).

- With respect to claim 1, 3, 16, 20-24, and 27-32, Bianchini, Jr. teaches a method of routing data packets of a plurality of data flows in a stream (block 14 in Fig. 4), carried on a transmission media operating at a first data rate, through a switching system parallel switching pathways operating at a second data rate (block 18, 20 in Fig. 4), the method comprising the steps of:

assigning a first data flow in the stream to a first switching path comprised of a first switching path corresponding first switching fabric (Fig. 4 shows flows from input stage to central super switch);

after the step of assigning a first data flow, routing to the first switching path, data packets of at least the first data flow;

upon the determination of a first condition (col. 3, lines 38-42), assigning at least some of the data packets of the first data flow to a second switching path (Fig. 4),

Bianchini Jr. fails to teaches a first data buffer and second data buffer couple to a switch fabric. Proctor teaches the data buffer (block 54, and 204 in Fig. 4) for control data to the switch. The data buffers can be utilized at the blocs 18 of Bianchini Jr. for controlling data before coming to the switch. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the buffers of Proctor's invention into Bianchini Jr. for controlling data flows in the switching fabrics and reducing a congestion and the system.

- With respect to claim 2, Bianchini Jr. a method of routing data packets of a plurality of data flows in a stream (block 14 in Fig. 4), carried on a transmission media operating at a first data rate, through a switching system, parallel switching pathways, each switching pathway comprised of an input data buffer that receives data packets from the transmission media via a demultiplexing operation each input buffer coupling data into at least one associated switching fabric (see Fig. 4), the method comprising the steps of:

assigning a first data flow to a first switching pathway (e.g. A to fabric 1 in Fig. 4);

routing to the first switching pathway, data packets, of at least the first data flow and the second data flow (e.g. flows in Fig. 4)

upon the determination of a first condition (col. 3, lines 38-42), assigning at least some of the subsequent data packets of the second data flow the stream to a second switching fabric (block 26 in Fig. 4);

routing the at least some data packets of the second data flow to the second switching fabric (block 26 in Fig. 4 teaches the flow from fabric is rerouted to new fabric).

- With respect to claim 10, Bianchini Jr. fails to teach the step of delaying the output of at least some of the data from the second buffer into a second switch fabric until the occurrence of a second condition. Proctor teaches the delaying of at least some data from the buffer (col. 2, lines 40-55) for controlling data flow in the transmission. It can be implemented the step of delaying into Bianchini Jr. by implementing the delaying step at the out buffer for controlling data flow. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement the step of delay for controlling the flow in the system.

- With respect to claim 15, Bianchini Jr. wherein the second switching pathway is a fault recovery switching pathway (e.g. the spare fabric in Fig. 4).

- With respect to claim 19, Bianchini Jr. wherein the demultiplexor is a demultiplexor which re-routes at least some of the data packets of the stream from a first data buffer to a second data buffer on the occurrence of a predetermined event (e.g. show in Fig. 4).

- With respect to claims 18, & 25-26, Bianchini Jr. teaches a data switch comprising: an input port receiving a stream of data flows (block 14 in Fig. 4)

a data flow demultiplexor, having an input coupled to the input port so as to receive the stream and further having K outputs and a control input, the data flow demultiplexor routing data packets of the data flows to different ones of the K data outputs (block 16 in Fig. 4);

K switch matrices, each matrix having K inputs and at least one output, each of the K inputs of each matrix coupled to a respective one of the K outputs of the buffers (block 20 in Fig. 4);

a controller, operatively coupled to the data demultiplexor (it inherently knows that the system has a controller to operate the system);

wherein data packets of a first flow of the stream S are routed by the data flow demultiplexor to a first switch matrix, and upon the detection of a predetermined event by the controller, at least a portion of the first flow is re-routed to a second switch matrix (col. 3, lines 38-42).

Bianchini Jr. fails to teach data buffer couple to a switch fabric. Proctor teaches the data buffer (block 54, and 204 in Fig. 4) for control data to the switch. The data buffers can be utilized at the blocks 18 of Bianchini Jr. for controlling data before coming to the switch. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the buffers of Proctor's invention into Bianchini Jr. for controlling data flows in the switching fabrics and reducing a congestion and the system.

***Allowable Subject Matter***

7. Claims 4-9, 11-14, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Ishibashi et al. (U.S. Patent No. 5663949) discloses line protection switching system in duplexed fiber interface shelf.

- Chang et al. (U.S. Patent No. 6873797 B2) discloses optical layer multicasting.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571) 272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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7/13/05

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PRIMARY EXAMINER